

Office of Disciplinary Counsel
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This matter is related to the proposed settlement of the class action lawsuit in the Superior Court of Sussex County against the alleged long-term air and groundwater contamination in the Millsboro area by Mountaire Farms. The case is known as Cuppels v. Mountaire Corporation, S18C-06-009 CAK.

According to the Delaware Rules of Professional Conduct (2020):

Relevant Section

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another;

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or

I believe both my attorney and Mountaire Farms' attorneys have conducted themselves improperly in the following instances:

Instance 1:

Relevant Section

Rule 3.3. Candor toward the tribunal.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraph (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer which will enable the tribunal to make an informed decision, whether or not the facts are adverse.

Rule 3.3 – Comment [2]

[2] This Rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process. A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal. Consequently, although a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause, the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false.

Rule 3.3 – Comment [10]

[10] Remedial Measures. — Having offered material evidence in the belief that it was true, a lawyer may subsequently come to know that the evidence is false. Or, a lawyer may be surprised when the lawyer's client, or another witness called by the lawyer, offers testimony the lawyer knows to be false, either during the lawyer's direct examination or in response to cross-examination by the opposing lawyer. In such situations or if the lawyer knows of the falsity of testimony elicited from the client during a deposition, the lawyer must take reasonable remedial measures. In such situations, the advocate's proper course is to remonstrate with the client confidentially, advise the client of the lawyer's duty of candor to the tribunal and seek the client's cooperation with respect to the withdrawal or correction of the false statements or evidence. If that fails, the advocate must take further remedial action. If withdrawal from the representation is not permitted or will not undo the effect of the false evidence, the advocate must make such disclosure to the tribunal as is reasonably necessary to remedy the situation, even if doing so requires the lawyer to reveal information that otherwise would be protected by Rule 1.6. It is for the tribunal then to determine what should be done — making a statement about the matter to the trier of fact, ordering a mistrial or perhaps nothing.

Rule 3.3 – Comment [12]

[12] Preserving Integrity of Adjudicative Process. — Lawyers have a special obligation to protect a tribunal against criminal or fraudulent conduct that undermines the integrity of the adjudicative process, such as bribing, intimidating or otherwise unlawfully communicating with a witness, juror, court official or other participant in the proceeding, unlawfully destroying or concealing documents or other evidence or failing to disclose information to the tribunal when required by law to do so. Thus, paragraph (b) requires a lawyer to take reasonable remedial measures, including disclosure if necessary, whenever the lawyer knows that a person, including the lawyer's client, intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding.

Rule 4.1. Truthfulness in statements to others.

In the course of representing a client a lawyer shall not knowingly:

(b) fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

Rule 8.3. Reporting professional misconduct.

(a) A lawyer who knows that another lawyer has committed a violation of the rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

Potential Misconduct

Exhibit A, provided by our attorney to the tribunal and Class Representatives, identifies proposed groundwater and air settlement areas.

Class Representatives were provided a map by our attorney indicating areas of apparent dumping (Exhibit C).

Notice of Violation W-17-GWD-13, which is what this lawsuit is regarding, cites and fines Mountaire Farms for excessive sludge dumping and spraying. However, there are locations within Exhibit A and Exhibit C that were not cited in which dumping has apparently occurred (Exhibit F and Exhibit G).

In a letter dated May 2, 2018, sent to Mountaire Corporation, Mountaire Farms, and provided to Class Representatives, details were provided regarding violations of both the Resource Conservation and Recovery Act and the Clean Water Act. Page 8 of that letter (Exhibit E) suggests our attorneys were aware these violations have occurred and continue to occur.

Given Mountaire Farms was not cited for dumping in this area and attorneys on both sides were apparently aware, if either or both of the following examples prove to be true, I believe Rules 3.3, 4.1, 8.3, and 8.4 would have required them to inform the appropriate professional authority.

I question whether the attorneys let the appropriate professional authority know potential dumping has and continues taking place in those areas. More concerning would be if the attorneys did alert authorities who subsequently allowed the deliberate contamination of our air and water to continue.

Example 1:

Ex. 6 Personal Privacy (PP) were added as Class Representatives and told sludge dumping may have occurred near their home. They were subsequently dropped from the case and told their home was not impacted. Both plaintiffs have sustained grave physical injury.

This area, referred to in Exhibit B as "Apparent Dumping Excluded from Exhibit A", does not appear to have been cited or fined in Notice of Violation W-17-GWD-13.

Satellite views, both historic and recent (Exhibit F), suggest dumping has occurred in woods near their home in parcel 135-20.00-137.00 and parcel 234-8.00-18.03. The most recent satellite view, June 2018, shows recovery of the woods. However, the most recent street view, October 2019, indicates further clearing and installation of an enhanced road into those woods.

A property search of parcels 135-20.00-137.00 and 234-8.00-18.03 yielded no permits.

If that is the case, then according to Rule 3.3.a.1.b, disclosure should have been presented to the tribunal. Likewise, the lawyers on both sides would have been required to inform the appropriate professional authority.

This urgent matter must be investigated immediately. The lives and health of Delawareans are potentially at stake.

Example 2:

Ex. 6 Personal Privacy (PP) who lives on Lawson Rd next to the northernmost sludge disposal area on Exhibit C and across the street from the groundwater settlement area identified in Exhibit A, was initially included as a Class Representative but was also subsequently dropped. He informed me he was told by our attorney that dumping had occurred in the area, but that it had occurred a long time ago.

Class Representatives were told by our attorney that Mountaire Farms had potentially disposed of untreated waste into the forests surrounding Mountaire Farms, which potentially contaminated the groundwater between those waste disposal areas and Swan Creek (Exhibit D and Exhibit E). Given Ex. 6 Personal Privacy (PP) home lies between the largest sludge disposal area and Swan Creek which aligns his back yard, he was understandably upset.

Ex. 6 Personal Privacy (PP) filed a complaint with the Office of Disciplinary Action, who then forwarded him a vague and scientifically unreasonable answer provided by our attorney for why they had dropped him. For one, the excuse he was given for being dropped, mainly that the area was rarely used, is nonsense because that entire sludge area is included in the proposed groundwater settlement area. To better understand the extent of dumping, the Delaware Department of Natural Resources and Environmental Control (DNREC) should inspect those woods. Any violations that may have occurred should be made publicly available which would resolve the question of how much apparent illegal dumping has occurred.

Ex. 6 Personal Privacy (PP) own property directly adjacent to the sludge disposal area shown in Exhibit A and Exhibit C, and also directly adjacent to a separate apparent ongoing dump area that is mere feet from their home. They were also dropped from the Settlement Class.

Satellite views, both historic and recent (Exhibit G), suggest dumping has occurred in woods near their homes in parcel Ex. 6 Personal Privacy (PP) and in parcel Ex. 6 Personal Privacy (PP).

A property search of parcel 234-21.00-138.00 shows it has had two permits, one dated June 21, 2016 to install an electrical substation, and another dated November 7, 2013 for land application of sludge. Jennifer S. Rouchey, Environmental Program Administrator, DNREC – Division of Water, corroborated the fact that the only active permit was for the electrical substation.

A property search of parcel 234-21.00-139.00 yielded no permits.

Given the attorneys are being alerted by me in this document to potential dumping in those parcels, I believe according to Rule 3.3.a.1.b, disclosure must be presented to the tribunal. Likewise, they must inform the appropriate professional authority.

This urgent matter must be investigated immediately. The lives and health of Delawareans are potentially at stake.

Instance 2:

Relevant Section

Preamble: A lawyer's responsibilities.

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

Potential Misconduct:

I feel my attorney has not acted with commitment and dedication on behalf of my interest with zeal in advocacy for the following two reasons.

Reason 1:

I do not feel the proposed air and groundwater settlement areas in Exhibit A are drawn to reasonably compensate people in many residential areas for the widespread air and groundwater contamination they have allegedly experienced. Those communities (Exhibits H, I, J) appear to have been systematically omitted from the proposed settlement. I do not believe the settlement areas were drawn scientifically. Instead, I believe they were extensively gerrymandered along property lines and manipulated with pinpoint accuracy to exclude communities and to include businesses, chicken farmers, individuals possibly related to chicken farming, and even potentially government facilities. For this reason, I do not believe my attorney is acting entirely in the interest of Class Representatives alone.

Regarding the proposed air area:

- My neighborhood, Indian Summer Village, and the neighboring communities, Warwick Park and Gull Point (Exhibit H), were skillfully removed from the proposed air settlement area, while a single adjacent business at the corner of John J. Williams Hwy and Layton David Rd was included.
- Plantation Lakes (Exhibit H) was similarly excluded from the proposed air settlement area. In this case, the boundary of the air settlement area was drawn precisely to exclude Plantation Lakes yet includes adjacent businesses along Rt. 113. That same boundary inexplicably stretches 1.25 miles out to include a single residence at the corner of Radish Rd. and Mumford St., which appears to be owned by someone with possible links to the chicken industry. I draw that conclusion since the adjacent property, which has abandoned chicken houses, is owned by the same individual (according to the land parcel tracking service, Landgrid).
- One specific individual owns properties located entirely or partially in both of those anomalous settlement areas shown in Exhibit H.
- Edward Cordrey Subdivision (Exhibit J) was removed from the air settlement area even though that communities lies between two affected areas.
- While the individual areas previously mentioned appear to be gerrymandered in micro-detail, the broader area of distribution contains large-scale gerrymandering that favors the distribution of chicken houses while excluding neighboring residential areas. As Dr. Bell explained in his scientific analysis, wind patterns during spring and summer favor areas north of Mountaire Farms rather than south as the settlement area suggests. At no time of the year does the north wind dominate other wind directions, meaning the entire air settlement area is factually

incorrect. In addition, the southward gerrymandering extends over three times as far from the Mountaire Farms spray fields and sludge dump areas as communities such as mine. In addition, that southern area includes an unequal distribution of chicken houses. (Exhibit K)

- One possible explanation for this gerrymandering could be to provide a mechanism by which settlement funds could be funneled to preferred plaintiffs unscientifically included in the air area at the expense of others who were surgically excluded.
- While I cannot prove so, I believe the smell in our neighborhood, identical to what we smell at the chicken plant and most pronounced during humid days of summer, but also occasionally in winter, is composed of the same chemicals.

There is also no reasonable explanation for why in two separate summers our neighborhood experienced an inordinate number of flies swarming our home making it unpleasant to sit outside. One of those being last summer. It is worth noting there were also complaints of flies surrounding an area of Alabama that had untreated chicken plant sludge sprayed on fields in September 2019.

Regarding the proposed groundwater area:

According to the United States Geological Survey (https://www.usgs.gov/special-topic/water-science-school/science/groundwater-flow-and-water-cycle?qt-science_center_objects=0#qt-science_center_objects), "Some of the precipitation that falls onto the land infiltrates into the ground to become groundwater. If the water meets the water table (at which the soil is saturated), it can move both vertically and horizontally. Water moving downward can also meet more dense and water-resistant non-porous rock and soil, which causes it to flow in a more horizontal fashion, generally towards streams, the ocean, or deeper into the ground." In layman's terms, the earth acts like a sponge, surface water enters the soil and travels outward and down at the same time. The water table of Sussex County is very shallow and the soil composition throughout is entirely composed of dense sand and silt. Any water would have immediately spread outward.

- Country Meadows (Exhibit I) was excluded from the proposed groundwater settlement. In this case, the boundary of the water settlement area includes properties with chicken houses but not that adjacent community located approximately 850 feet away.
- Maryland Camp Rd. community (Exhibit J) was removed from the groundwater settlement area even though their community lies directly adjacent to a sludge disposal area. The "scientific" answer provided to Steven Reed regarding why his property was excluded, namely that the groundwater heads southwest, south, and southeast does not appear to apply in this area as the groundwater area skillfully dodges that neighborhood and inexplicably heads north at a nearly 45-degree angle.
- The residential area along Lawson Road (Exhibit I) is immediately adjacent to the northern-most and largest sludge disposal area indicated by the attorneys in Exhibit A. This residential area was previously discussed in Instance 2, Example 2 (Exhibit G).

Groundwater from that sludge disposal area migrates directly through those residences to Swan Creek, which is only 1,600 feet from the sludge disposal area. However, those residences were dropped from the Class at the proverbial 11th hour. Since those Class members seem to continue

having their air and water contaminated by Mountaire Farms, they should be made whole.

It is worth noting that the entirety of Swan Creek was omitted from Exhibit A. Exhibit I includes an overlay taken from the United States Geological Survey which indicates the location of Swan Creek. The headwater of Swan Creek lies north of Zoar Rd.

Reason 2:

The proposed settlement amount likely does not align with the actual damage Mountaire Farms has caused.

I sustained seven known medical conditions, detailed for the judge and both my and Mountaire Farms' attorneys in my objection to the proposed settlement. None of those conditions existed prior to having my water and air apparently contaminated by Mountaire Farms.

Some of my medical issues have abated since I installed a whole-house water treatment system. However, I remain permanently maimed with at least two, namely tinnitus and an unidentified lesion in my rectum, neither of which have known cures.

I developed a painful rash for which I sought medical attention on two different occasions. It started as dry skin flaking on my forehead where it stubbornly remains to this day. It then became red and crusty and slowly spread over my body. Ultimately, I had a series of painful scabs on my forehead, my nostrils, my eyelids, inside and behind my left ear, my chin, my chest, my testicles, and my foreskin which was fused to the head of my penis. Every morning I would shower and gently peel my foreskin away from the head of my penis which felt like I was ripping the skin off. I was frankly terrified as the rash came within 1 centimeter of my urethra. Had that infection entered my body I felt it would get out of control and perhaps kill me just as many of my neighbors had died or become ill. I cannot be sure I will ever be free of that skin infection as I have a stubborn spot where it started remaining on my forehead and still get occasional flare-ups elsewhere.

I had three conditions which could lead to cancer. One, hypercalcemia can also cause atherosclerosis and heart disease. That condition abated when I stopped drinking my well water. However, I do not know the long-term effects that condition might have caused to my arteries, nor can I be certain I will not develop cancer from it.

I developed gastroesophageal reflux disease and resulting pre-cancerous lesions and narrowing of my esophagus. I hope to resolve those issues via surgery I postponed due to the ongoing pandemic.

The third potential cancer-causing ailment, the lesion in my rectum, remains and is untreatable as the doctors do not know what it is and don't want to biopsy it for fear it will spread. For that condition I must undergo colonoscopies every five years to monitor it for the rest of my life.

Will that lesion develop into cancer? Will I wind up with surgery not allowing me to defecate normally and end up with a colostomy bag? Furthermore, there is no determining at this point whether the surgery will work, given it does not have a 100% success rate, nor is there a guarantee that the pre-cancerous scarring of my esophagus will not develop into cancer.

I cannot possibly imagine how much any of that will cost me in the future.

The distribution of settlement funds will not occur until after it has been determined that the settlement areas are acceptable and this Class Action suit is approved. As it is written, I might be awarded a single penny living 1.36 miles from the nearest sludge disposal area while the remainder is distributed to people who work as far away as Dagsboro, five miles away from the plant.

In addition, this Settlement Class has been expanded to include “All Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on Exhibit A, and not the Air Area, which is bounded by the dashed red line on Exhibit A; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area.” The monetary awards could be so diluted that I question whether I would have the money for reimbursement of my water treatment system and the bottled water delivered to my home, never mind my planned surgery or potential future cancer or heart treatment.

I see no reason for this Settlement Class to be expanded at all. Especially given it inherently dilutes settlement funds and affords the opportunity to unfairly distribute them after the fact. To my recollection we were never told this would be the case when our attorney brought us on as clients.

Recall Ex. 6 Personal Privacy (PP) who was dropped from the Settlement Class after settlement was proposed. He was told the lawsuit was capped at \$65,000,000 because anything more would bankrupt Mountaire Farms. That is absurd. Mountaire Farms alone earned \$2.353 billion dollars in 2019, never mind how much their parent corporation Mountaire Corporation earned and has earned in prior years when this alleged “plant failure” occurred. I firmly believe that a larger and more equitable settlement would not come close to “bankrupting” Mountaire Farms or their parent corporation, Mountaire Corporation. For perspective, one billion is one-thousand million. That means the \$65 million is only 2.762% of Mountaire Farms’ sales in 2019 alone. The theoretical bankruptcy appears to me to be an excuse to arrive at a non-equitable settlement that clearly benefits Mountaire Farms.

The real health and financial costs have risen greatly because those in charge appear to have looked the other way, and potential crimes were not investigated and dealt with in a timely manner.

I did not choose to have my air and water contaminated. Nor did the numerous members of the surrounding communities who either died or were seriously injured, and still many others, like me, who were permanently maimed and left with potentially financially devastating healthcare costs. In effect, minimizing compensatory damages to affected victims appears to have been orchestrated to maximize Mountaire Farms’ and Mountaire Corporation’s profits. Corporate profits should never be made at the catastrophic cost of potentially poisoning the thousands of people living in surrounding communities.

The preamble to the Delaware Rules of Professional Conduct states “[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client’s cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client’s behalf.”

The American Journal of Public Health (2019) found that 66.5% of bankruptcies in the United States were due to medical issues. In that my attorney agreed to a settlement that likely undervalued the

potentially devastating medical costs people such as myself may incur in the future and costs we have already assumed, it is my very strong opinion he did not act with zeal in advocacy for myself or other Class Representatives in this proposed settlement, but instead did so for the defendant.

Instance 3:

Relevant Section

Preamble: A lawyer's responsibilities.

[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

[9] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

Rule 1.3. Diligence.

A lawyer shall act with reasonable diligence and promptness in representing a client.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

Rule 1.3. Diligence.

A lawyer shall act with reasonable diligence and promptness in representing a client.

Rule 3.2. Expediting litigation.

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

Rule 3.2 – Comment [1]

[1] Dilatory practices bring the administration of justice into disrepute. Although there will be occasions when a lawyer may properly seek a postponement for personal reasons, it is not proper for a lawyer to routinely fail to expedite litigation solely for the convenience of the advocates. Nor will a failure to expedite be reasonable if done for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose. It is not a justification that similar conduct is often tolerated by the bench and bar. The question is whether a competent lawyer acting in good faith would regard the course of action as having some substantial purpose other than delay. Realizing financial or other benefit from otherwise improper delay in litigation is not a legitimate interest of the client.

Potential Misconduct:

I do not feel my attorney has zealously asserted my position under the rules of the adversary system nor has he sought to advantageously protect and pursue my legitimate interests.

I feel so for the following reasons:

1. The proposed settlement has been designed in such a way such that I could never sue Mountaire again, even for future similar discharges of similar type and nature.
2. The proposed settlement would permit Mountaire Farms to continue contaminating the groundwater and air until after they finish the upgrades to their systems.
3. The aforementioned gerrymandering of the proposed groundwater and air settlement areas.
4. Entities related to the poultry industry and government are not specifically excluded from the settlement.
5. Unnecessary procrastination and delay tactics by both sets of attorneys
6. The absurdly small amount of time afforded to Class Representatives to address the proposed settlement in conjunction with unnecessary burden placed on Class Representatives.
7. The extreme duress I have been put through.

Details

1. The proposed settlement has been designed such that Class Members who did not realize they should have opted out of the suit, or even heard of the suit, would never be permitted to sue Mountaire Farms or Mountaire Corporation. In fact, the default "Do Nothing" action states, "You do not need to take any action if you do not wish to be excluded from the Settlement Class. However, if you take no action you will receive no benefits from the Class Action Settlement. You will also give up any rights you have to sue Mountaire Farms of Delaware, Inc.; Mountaire Farms Inc.; and Mountaire Corporation for injuries or damages related to groundwater contamination or air pollution (See question 7)." Further, the Notice of Proposed Settlement states, in bold, **"Your legal rights are affected whether you act or don't act."**

This stripping of the right to sue Mountaire Farms for future contamination events may possibly have been premeditated as part of the design of this suit from the beginning. On page 8 of a letter dated May 2, 2018, sent to Mountaire Corporation, Mountaire Farms Inc., and also provided to Class Representatives (Exhibit E), our attorney included the text "All specific discharges discovered subsequent to the sending of this notice, of similar type and nature,

whether occurring prior or subsequent to this notice, shall be included in the action in this case without the need for further notice under 33 U.S.C. § 1365(b).”

The Notice of Proposed Settlement states, “The Defendants have agreed to pay \$65,000,000.00 (the “Class Action Settlement Amount”) to resolve the Settlement Class Members’ claims. In exchange for this payment, Settlement Class Members who do not request to be fully excluded will fully release any known or unknown claims, which were alleged or could have been alleged in the Lawsuit. Specifically, Settlement Class Members will not be permitted to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants for all allegations and claims of any kind, known or unknown, whether pursuant to federal, state, or local statutory law, common law, regulations, or other law that Plaintiffs made or could have made against any Defendant that arose, directly or indirectly, from or relate to (a) the matters alleged or that could have been alleged in the Lawsuit; (b) matters alleged or that could have been alleged in State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc., C.A. No. 18-838 (MN); (c) matters alleged or that could have been alleged in connection with any challenge to the December 13, 2019 Conciliatory Agreement between the Delaware Department of Natural Resources and Environmental Control, Mountaire Farms of Delaware, Inc. and Mountaire Farms Inc.; (d) matters alleged or that could have been alleged in Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc., C.A. No. S18M-06-002-RFS (Del. Sup. Ct.); (f) attorneys’ fees, costs, and expenses; and (g) any other matters related to operation of, permitting of, or any alleged emissions from or at the Facility or environmental contamination of any kind (including but not limited to wastewater, sludge and/or other biosolids, groundwater, surfacewater, and air emissions or odors) at or released from the Facility”

The Notice of Proposed Settlement states, “All Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on Exhibit A, and not the Air Area, which is bounded by the dashed red line on Exhibit A; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area.”

What possible reason could there be for such an egregiously open-ended settlement that by default forever strips away future legal rights to sue Mountaire Farms from such a huge number of people? According to the way it is written anyone who has lived or worked, or simply owned property on which they didn’t reside, in either the proposed air or water settlement areas since May 1, 2000, over twenty years, would not only be ineligible for filing suit for damages they may have incurred during that period, but would be prevented from ever suing Mountaire Farms for illegal dumping again in the future!

I cannot imagine how much this would deleteriously impact property values.

I find it difficult to believe it is legal to construct a lawsuit such that a baby living in the settlement areas on February 22 would never be able to sue Mountaire Farms for even

deliberately contaminating their air and groundwater.

2. The Notice of Proposed Settlement states, “In addition to this Class Action Settlement, in another case in Federal Court, State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc., C.A. No. 18-838 (MN), Mountaire has agreed to engage in certain additional activities to prevent future harm to the groundwater, reduce air emissions and provide residents an avenue to report and receive followup (sic) on air pollution complaints in the form of a First Amended Consent Decree before the Federal Court for approval. These additional activities include: refraining from land application of sludges and biosolids **pending** certain wastewater treatment upgrades; continuing to provide bottled water to certain residents; installing at least 60 acres of phytoremediation; and establishing a process to respond to odor complaints. The Parties estimate that the aggregate value of these separate commitments is expected to be approximately \$120 million for incurred and contracted costs, exclusive of long-term operation and maintenance and contingencies. Further information about the Federal Case, including resolution of claims by Intervenor in that case, is set forth below.”

Pending! Is this some kind of sick joke? If Mountaire Farms illegally dumped what our lawyer’s themselves characterized in Exhibit E as “presenting an imminent and substantial endangerment to health and the environment” in either of the locations in Exhibit F and Exhibit G, they should be required to clean up that hazardous biowaste **IMMEDIATELY**.

3. The gerrymandering of the proposed groundwater and air settlement areas is a perfect example of my attorney not working to assert his client’s (my) position under the rules of the adversary system.
4. The Notice of Proposed Settlement includes the following: “Excluded from the definition of the class are (1) Defendants; (2) any entity in which Defendants have a controlling interest; (3) any Person with an ownership interest in Defendants; (4) any current or former officer or director of Defendants; (5) any current or former employee of any Defendant for any potential exposure during their employment by such Defendant; (6) Persons who have entered into separate settlement agreements with any Defendant related to claims similar to those claims made in the Action; and (7) the legal representatives, successors, or assigns of Defendants.”

That sounds reasonable until you realize that it doesn’t also exclude persons or businesses involved in the poultry industry in other ways, such as chicken farms and hatcheries. Leaving the Exclusion Clause as it is provides a vehicle for settlement funds to be directed away from affected communities and funneled to Mountaire Farms’ business partners. This is especially possible given that determination happens after settlement is approved by the judge.

I do not believe any proposed settlement should include entities that are in any way connected to Mountaire Farms, Mountaire Corporation, or are involved with the poultry industry. I also do not believe it should include government interests that have already capitalized on this apparent enormous catastrophe through fines and taxes at the expense of Class

Representatives.

5. I also feel my attorney, along with the defendant's attorneys, have deliberately procrastinated settlement potentially putting the entire case in jeopardy of exceeding the statute of limitations and to allow Mountaire Farms to continue capitalizing on this apparent utter catastrophe.

There is no question Mountaire Farms has contaminated the air and groundwater. They were cited and fined for having done so in Notice of Violation W-17-GWD-13. It should not have taken nearly this long to reach a reasonable settlement with Mountaire Farms.

In his November 16, 2020 ruling, Superior Court Judge Craig Karsnitz stated in his denial of Mountaire Corporation's attempt to bypass his jurisdictional oversight of the case that it "would place the entire schedule in jeopardy and delay resolution of the case." Having done so dragged the case on unnecessarily.

While I understand that was caused by Mountaire's attorneys, Judge Karsnitz has had disparaging comments for the attorneys on both sides. According to a July 2, 2020, article in Delaware Online (<https://www.delawareonline.com/story/news/local/2020/07/02/mountaire-hit-sanctions-delaware-wastewater-lawsuit/5366247002/>),

Judge Craig Karsnitz noted that he had repeatedly warned attorneys on both sides about "the lack of civility which permeated the case."

"My urging to civility has fallen on deaf ears," Karsnitz wrote.

Judge Karsnitz has characterized both sets of attorneys as having launched into a "war of letters." In particular, he has expressed serious frustration with the snail's pace and legal games being played by Mountaire's attorneys, stating "To me, all of what I have outlined here is apparent and obvious. Defendants face serious, enormous claims. They have the right to litigate them fully, and in accordance with law. Defendants' actions exhibit a flavor of delay for delay's sake," and "Defendants filed their motion to dismiss on jurisdictional grounds after two years of litigation, and after a full trial schedule, including a six-week trial, had been in place for almost nine months."

Had precious time not been wasted, potential dumping of hazardous biowaste in the woods upstream near my home would already be cleaned up and the apparent ongoing dumping would have been stopped.

Deliberate procrastination would be bad enough as it pertains to this civil suit. However, this delay is totally unacceptable and horrendous for two very important reasons:

PEOPLE ARE POTENTIALLY STILL BREATHING POISONOUS AIR, AND DRINKING AND BATHING IN POISONOUS WATER.

6. While the attorneys were given years to work out this deal, Class Representatives were given a measly three weeks to object or to opt out of the settlement. I personally was not provided the paperwork to respond to the proposed settlement until far later than others. I assume that is

the contents of the unopened envelope postmarked February 10, 2021 sent to me by my attorney. This was a suspicious surprise to me given I had not contacted them and had only spoken with government employees. This meant I had 13 days to object, a deadline I nevertheless met.

Some people received one letter addressed to the wife in care of the husband, some were provided to both spouses, and some were provided nothing. We were forced to make copies, understand legal documents, pay for stamps and envelopes, etc. No one in the attorney's offices thought to provide that. I suppose that could have been an oversight, but there is what appears to be an obvious pattern of unnecessary obfuscation and burden to prevent us from responding in time. This is especially pertinent to the "opt out" date, which is a full month earlier than the registration date, and by not submitting in time prevents people from ever suing Mountaire Farms again.

We were given no real synopsis regarding how the proposed settlement was reached, only 550 pages of legal documents. It was essentially, "This is the number. Take it or leave it." We should have also received an analysis determining how much we receive individually, which is instead to be determined after the proposed settlement is (hopefully not) approved. In three years no one was able to determine that? If not calculated based on that, how did they come up with \$65 million? How can I possibly know if I should object given the settlement appears to be a scam designed to take the money from those of us who were harmed and direct it to people in the poultry industry? I could get a single penny and that would be my legal tough luck.

In this short 13-day period I was expected to read and understand the following 550 pages worth of documents:

Document	# Pages
Exhibit A	1
Notice of Proposed Settlement	11
Class Action Registration Form	2
Request for Exclusion	1
Class Action Settlement Agreement and Release	112
Order Granting Preliminary Approval of Class Settlement Agreement and Other Relief	11
Joint Motion for Preliminary Approval of Class Action Settlement Agreement and Release (with Exhibits)	219
Motion in Support of Class Counsel's Application for Attorney's Fees and Reimbursement of Expense (with Exhibits)	193
Total Pages:	550

7. The term "needless anxiety" does not begin to describe how I have felt since discovering I was possibly poisoned. For the last month I have been absolutely terrified. I am no longer living in my home and may never move back, not only because I personally feel as though my attorney has turned on me, but also because I am up against a huge multi-billion-dollar corporation that appears to continue deliberately contaminating our air and water even after having been caught doing so.

I also cannot live in my home without risking further harm until this apparent unbelievable ecological catastrophe is cleaned up. Some of those who have have died and gotten sick suffered lung ailments. I am one of them and so is my husband. Prior to moving to Delaware, I was the healthiest I had ever been in my life, having spent the previous 16 years meticulously renovating an historic home. I now have weak lungs. I sometimes wake up coughing. My husband developed asthma and lost 30% of his lung capacity.

Prior to moving to Delaware I would only occasionally sneeze, and every time without exception I would sneeze three times. Once here full-time I found myself routinely coughing so hard I would begin to sneeze uncontrollably up to 10 times in a row. When this occurs I cannot catch my breath. My widowed neighbor, for whom I have been the primary care-giver since her husband died of two types of cancer when this catastrophe befell our neighborhood, also experiences this so-called “cough-sneeze”. Several weeks ago when I was visiting she started coughing, sneezing, and gasping for breath. As she walked to the kitchen I ran across the room to steady her because I thought she was going to fall. In fact, I thought I might have her die in my arms right there because she suffers from congestive heart failure as well.

I have sought medical attention for:

- Cramping in my rectum that regularly wakes me up. This is a permanent affliction because the doctors don’t want to biopsy the unidentified lesion for fear it will spread. Because of this I will have to undergo general anesthesia for colonoscopies every five years for the rest of my life.
- Stage 4 Gastroesophageal Reflex Disease (GERD). This is the most advanced stage which involves pre-cancerous lesions in my esophagus. Prior having clean water delivered to my home I regularly found myself waking up spitting up the contents of my stomach into my mouth. The resulting narrowing of my esophagus is such that I regularly get food stuck in my throat which I sometimes regurgitate. It also damaged my voice, which as a talented professional singer was devastating. While potentially permanent, there is a new medical device I can have implanted that acts to support the broken sphincter at the top of my stomach to hold in the contents. As stated previously, I intend on having that surgery when the pandemic has subsided. Imagine the choice of having to weigh the risk of developing esophageal cancer against contracting a viral lung disease during a global pandemic after having developed lung issues.
- Hypercalcemia. Routine bloodwork while trying to figure out why I was suddenly falling apart indicated I had hypercalcemia, an overload of calcium in my blood. This is an extremely serious condition that can lead to cancer, atherosclerosis, and heart disease, as well as a host of other problems including increased thirst and urination, confusion, and fatigue, all of which I experienced.

Ex. 6 Personal Privacy (PP)

a friend who lived right outside of my neighborhood when Mountaire Farms appears to have devastated our community, was previously extremely healthy (he ran a roofing company). He has since had two heart attacks, a blood clot, a loop recorder that recorded his heart stopping twice after having passed out, 10 stents

installed in his heart, and is scheduled for one to be installed in his kidney, and is a having pacemaker installed.

I am taking blood pressure medicine and statin drugs. I could have heart attack any day, a stroke like two of my neighbors did, or an aneurysm like another neighbor.

- Sudden incredible tinnitus, also permanent. The onset was immediate, and the volume was truly astounding. Thankfully, the volume has dropped by nearly half since I stopped drinking what I believe to be contaminated well water. I also developed severe pain on the sides my neck below my ears that has vanished as well. In seeking medical treatment for these problems, I had allergy tests performed which showed I have an allergy to chicken. I imagine that has something to do with why my previously healthy body fell apart.
- Suicidal ideation. Though I sought medical attention for this the drive to get there and the cost were both simply something I couldn't afford. I never even made it past the initial visit and wasn't able to speak to a therapist. I did, however, speak to many friends and family members so they would keep an eye on me. Prior to this event I never experienced anything like that.
- Thyroid nodule. An initial sonogram showed a nodule on my thyroid, so I was scheduled for a deep scan. The doctor and nurse were confused when nothing showed up, so they called in a third medical professional and all were confused.
- Thinning hair. Obviously this could happen to anyone, however in my case it was sudden and occurred at the same time. While it has not regrown, it has stopped falling out since I stopped bathing in the contaminated water.
- Erectile dysfunction. Again, this could happen to anyone, but it also coincided with my hypercalcemia which leads me to believe that I have calcium deposits in my arteries. When I have been vaccinated against COVID-19, I will have the necessary tests done to determine the extent of damage.

Conditions for which I did not seek medical attention:

- Tonsil stone. This was benign and I didn't receive medical attention, nor did I mention it to my attorney because I'd forgotten about it, but they are suspected to be caused by excess minerals and bacteria, both of which are implicated in this suit.
- Pain in both elbows and my left knee which subsided after I stopped drinking my water.

I am fortunate in that I was able to purchase the best water treatment system available, which immediately stopped some of my medical problems. What am I supposed to do about the air? Never mind how many other people live in the area and cannot afford water treatment systems.

Instead, I have watched as friends and neighbors have continued to needlessly suffer and die. Nothing is sadder or more frightening than that.

Anxiety? That is only one of the numerous emotions tearing me apart. To that include fear, anger, sadness, grief, and extreme exhaustion as I have worked around the clock for the past month to understand how this obscene proposed settlement has sought to obfuscate reality in order to maximize Mountaire Farms' corporate profits and minimize compensatory damages to the surrounding residential community members who may have been poisoned.

Instance 4:

Relevant Section

Rule 2.3. Evaluation for use by third persons.

(a) A lawyer may provide an evaluation of a matter affecting a client for the use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client.

(b) When the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the lawyer shall not provide the evaluation unless the client gives informed consent.

Rule 3.3 Candor toward the tribunal. (Listed above.)

Potential Misconduct:

I understand my attorney has obtained the services of scientists to evaluate the affected groundwater and air areas. In my opinion, and that of world-class scientists and the United States Geological Survey, the "science" presented in Exhibit A is non-credible. If that is the case and given it will adversely affect my interest, Rule 2.3.b states that evaluation should not be provided unless the client gives informed consent. I do not.

My husband, [Ex. 6 Personal Privacy (PP)] is a world-renowned meteorologist. [Ex. 6 Personal Privacy (PP)] earned a Bachelor's degree with majors in both Meteorology and in Mathematics in which he graduated summa cum laud, a Master's degree in Meteorology, and ultimately his Ph.D. degree in Meteorology. The National Oceanic and Atmospheric Administration awarded him with the distinguished once-in-a-lifetime Isaac M. Cline Award, granted to the top meteorologist in the country. He is widely regarded in meteorological community as an international expert.

[Ex. 6 Personal Privacy (PP)] is fully capable of explaining how basic meteorology works to whomever fabricated the proposed air settlement area in Exhibit A, and will do so. However, I will put it into layman's terms. In essence, over the course of 20 years air does not move like the absurd squiggly line Exhibit A suggests. Like groundwater, it does not follow property boundaries and it isn't attracted to chicken houses.